

Applicant : D. Amnon Silverstein
Serial No. : 09/484,667
Filed : Jan. 18, 2000
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Attorney's Docket No.: 10982103-1
Amendment dated June 14, 2004
Reply to advisory action dated May 14, 2004

Remarks

I. Status of claims

Original claims 1-10 and 22-31 were pending.

Original claims 11-21 have been withdrawn as being directed to a non-elected species.

New claims 33-52 have been added.

II. Election of species

Applicant respectfully requests that original claim 19 be included with the current set of elected claims (claims 1-10) because claim 19 encompasses the elected Species I and essentially tracks claim 1.

Applicant also respectfully requests that original claims 16-18 and 21 be included in the current set of elected claims because they recite respective subject matter that is outside the scope of each of the four species identified by the Examiner in the action dated July 29, 2003.

III. Rejection of claims

The Examiner has rejected claims 1-10 and 22-31 under 35 U.S.C. § 103(a) over Hedberg (U.S. 6,411,275) in view of Suso (U.S. 6,069,648).

MPEP § 2136.03.I. provides that:

Foreign applications' filing dates that are claimed (via 35 U.S.C. 119(a) – (d), (f) or 365(a)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may not be used as 35 U.S.C. 102(e) dates for prior art purposes. This includes international filing dates claimed as foreign priority dates under 35 U.S.C. 365(a).<Therefore, the foreign priority date of the reference under 35 U.S.C. 119(a)-(d) **>(f), and 365(a)< cannot be used to antedate the application filing date.

Accordingly, Hedberg is effective prior art as of its U.S. filing date of December 23, 1998.

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As established by the attached Declaration Under 37 CFR § 1.131, Applicant had conceived the subject matter recited in the pending claims in this country prior to prior to Hedberg's effective filing date (i.e., December 23, 1998) and diligently reduced this subject matter to practice from a time prior to Hedberg's effective filing date up to the date of reduction to practice, at least to the extent of the pertinent portion of Hedberg's disclosure relied upon by the Examiner. Please note that Exhibits C-H of the attached Declaration address the Examiner's request for dated evidence of diligence in the period between October 26, 1998, and June of 1999.

Therefore, Hedberg is not prior art and the Examiner's rejection of claims 1-10 under 35 U.S.C. § 103(a) over Hedberg in view of Suso should be withdrawn.

IV. Conclusion

For the reasons explained above, all of the pending claims are now in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Respectfully submitted,



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Date: June 14, 2004

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